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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

| | | |
|------------------------------|---|--------------------|
| In the Matter of |) | |
| |) | CC Dkt. No. 95-116 |
| Telephone Number Portability |) | |

REPLY COMMENTS

Time Warner Communications Holdings Inc. d/b/a Time Warner Telecom ("TWTC"), by its attorneys, hereby files these reply comments regarding the methodology for allocating the joint costs of implementing long term number portability ("LNP").

INTRODUCTION AND SUMMARY

The Commission must make an informed policy judgment in this further LNP proceeding -- how to fairly and efficiently allocate joint costs. TWTC urges the Commission to opt for the competitive fairness and administrative ease associated with using a fixed allocator to separate joint and common costs ("joint costs"). It should be based upon detailed economic costs, and should apply to all incumbent local exchange carriers ("ILECs").

The ILECs have not, however, aided the Commission in its task. In cost support submissions filed along with query tariff transmittals as well as the comments in this proceeding, the ILECs have failed to provide detailed cost information necessary to any Commission determination regarding recovery of joint costs

or other aspects of LNP cost recovery. In a declaration submitted as an exhibit to these reply comments, William Barta, President of Henderson Ridge Consulting, Inc., describes the cost data the Commission needs to make informed judgments on LNP cost recovery, including setting an allocator for joint costs. The FCC should require the ILECs to submit this information.

Finally, the ILECs have attempted in this proceeding to reargue two issues already resolved in the negative in the Third Report and Order:¹ (1) may the entire cost of an LNP upgrade be classified as directly related to providing LNP?; and (2) may general overhead loading factors be used in calculating the costs of providing LNP? The Commission should reject these arguments as untimely and meritless.

I. The Commission Should Adopt a Fixed, Uniform Cost Allocator for Recovery of LNP Joint and Common Costs.

The Commission should allocate joint costs of LNP and other services by identifying a fixed allocator, uniform across ILECs, to separate out the costs of LNP and non-LNP expenses.

The use of a fixed allocator obtains benefits not attainable by other allocation methodologies. As the Commission has previously found, "[a] fixed factor has the advantage of simplicity, and would eliminate the need for usage projections

¹ In the Matter of Telephone Number Portability, CC Dkt. No. 95-116, Third Report and Order (rel. May 12, 1998) ("Third Report and Order").

and measurements as well as subsequent reallocations to adjust for inaccurate projections."²

Recognizing the merits of this approach, the Commission has in the past uniformly applied a fixed allocator across carriers. For example, in the context of loops jointly used for local exchange service and interexchange access service, the Commission mandated that 25% of these costs be allocated to the interstate jurisdiction.³ Though the separations context does not present precisely the same issues as does the allocation of joint costs of providing LNP, the analogy still proves instructive. In both the separations and the LNP contexts, the FCC must allocate joint costs (interstate v. intrastate in separations, and LNP v. non-LNP in the instant context). In both situations, the regulated firm has the incentive to game the FCC's rules to maximize the firm's return on investment. A fixed allocator is preferable because it leaves less room for manipulation than more complex methods of allocation.

² Allocation of Costs Associated with Local Exchange Carrier Provision of Video Programming Services, FCC 96-214, *Notice of Proposed Rulemaking*, 11 FCC Rcd 17211, 17227 (1996).

³ See, e.g., 47 CFR § 36.154(c) ("25 percent of the costs assigned to [subscriber or common lines that are jointly used for local exchange service and interexchange access service] shall be allocated to the interstate jurisdiction.") Of course, various subsidy programs permitted high cost LECs to allocate a higher portion of their costs to the interstate jurisdiction.

Indeed, in his attached economic analysis, Mr. Barta concludes that use of a fixed allocator across carriers is warranted.

A careful review of the comments and Direct Cases filed by the incumbent carriers indicates that the switching feature software packages, the deployment of additional network facilities, and the OSS modifications that are deemed necessary for the provision of local number portability will not substantially differ across carriers. Likewise, the level of joint and common costs should not vary significantly among the carriers due to the similar cost characteristics in providing LNP. The standardization inherent in the provision of LNP lends itself to developing a nationwide uniform factor for joint and common cost recovery. . . . A uniform [factor] offers administrative ease for all parties and provides alternative service providers greater assurance that there will be some consistency among the LNP tariffs when planning their service offerings.⁴

Furthermore, in the Commission's Separations proceeding, several ILECs themselves requested that the Commission "freeze the apportionment factors and the categorized relationships of the separations process. . . ."⁵ Such a freeze is tantamount to selection of a fixed-factor -- both are to some degree arbitrary and de-linked from a purely cost-driven methodology. The same rationale should apply here. These ILEC requests in a proceeding similar to the instant proceeding, in conjunction with the other arguments mentioned, should strongly augur in favor of the adoption of a fixed-allocator, applied uniformly across ILECs.

⁴ Barta Affidavit, attached as Exhibit A, at 5-6 ("Barta Aff.").

⁵ See Ameritech Comments in CC Dkt. No. 80-286 at 8 (filed Dec. 10, 1997); see e.g., BellSouth Comments in CC Dkt. No. 80-286 at 10 (filed Dec. 10, 1997) (requesting similar freeze).

Moreover, the courts have in the past held that the FCC has the authority to use a fixed allocator to allocate joint and common costs among different services.⁶ This is because the allocation of joint costs is not a purely economic process -- it is ultimately a policy decision.

The adoption of a uniform allocator might not allow ILECs to recover all costs incurred to implement LNP by way of LNP charges consistent with the 1996 Act provision governing LNP cost recovery, Section 251(e)(2), and the Commission's interpretation of that provision. Section 251(e)(1) states that,

[t]he cost of establishing telecommunications . . . number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.⁷

⁶ See MCI Telecommunications Corp. v. FCC, 675 F.2d 408 at 415-16 (D.C. Cir. 1982) ("The very problem at issue here-- allocation of common costs--arises precisely because there is no purely economic method of allocation. . . . [E]lements of fairness and other noneconomic values inevitably enter the analysis of the [allocation] choice to be made."); MCI Telecommunications Corp. v. FCC, 750 F.2d 135 at 139 (D.C. Cir. 1984) (finding interim fixed allocator to divide non-traffic sensitive plant use between federal and state jurisdictions would avoid prejudicing some users and benefiting others based on usage fluctuations); See Smith v. Illinois Bell Telephone Co., 282 U.S. 133 at 150 (1930) ("[T]he difficulty in making an exact apportionment of the property is apparent, [though] extreme nicety is not required, only reasonable measures being essential") (emphasis added); Rural Telephone Coalition v. FCC, 838 F.2d 1307 (D.C. Cir. 1988) (finding Smith requires only reasonable measures and does not compel use of a particular formula). Again, though these cases arise in the separations context, they are instructive nonetheless in the context of LNP joint costs.

⁷ 47 U.S.C. § 251(e)(2).

In construing this provision, the Commission has specifically rejected the ILEC argument that "competitive neutrality" requires that the FCC ensure that carriers recover all of their LNP costs.⁸ The FCC held that "[n]othing in section 251(e)(2) states that the [FCC] must guarantee recovery of such costs."⁹

In the Third Report and Order, the Commission confirmed in three different places that ILECs cannot be assured of recovering, by way of LNP charges, all costs incurred due to implementing the Commission's LNP orders. First, the Commission recognized that "some upgrades [necessary to implement LNP] will enhance carriers' services generally, and that at least some portion of such upgrade costs are not directly related to providing number portability."¹⁰ For example, the Commission stated that, to the extent a carrier is unable to "demonstrate" the cost of incremental overheads it incurred, it will not be able to recover them via LNP charges.¹¹

Second, in discussing the use of a revenue allocator for end-user revenues attributed to each carrier (in order to determine how much that carrier must contribute for shared LNP database costs), the Commission noted that when one carrier wins another carrier's end-user, the end-user may generate a slightly different amount of revenues on the new carrier's system. "These

⁸ See Third Report and Order at ¶ 59.

⁹ See id.

¹⁰ See id. at ¶ 73.

¹¹ See id. at ¶ 74.

amounts may not be exactly the same because each of the three carriers may have different rates and may not collect exactly the same revenue from that subscriber."¹² This may result in a carrier paying more (or less) than a ratio determined based upon actual end-user revenues.

Finally, the Commission permitted but did not require regional database administrators to "true-up" carrier payments for shared LNP database costs based upon payments made prior to issuance of the Third Report and Order.¹³ To the extent the regional administrator does not provide for a "true-up," again the ILEC will end-up paying an amount beyond its ratio of end-user revenues.

Thus, while a fixed allocator may not reflect actual costs, the foregoing demonstrates that the Commission is not constrained to enable ILECs to recover every last penny associated with LNP implementation. Rather, the Commission must balance the need to reasonably allocate LNP joint costs with the need for administrative ease and closure to the issue.

II. The Commission Should Require ILECs to Provide Cost Data Sufficient for the Commission to Properly Allocate Costs Between LNP and Non-LNP Services As Well As to Settle Other Aspects of LNP Cost Recovery.

The Commission requires detailed cost information in order to properly allocate LNP and non-LNP costs as well as other

¹² See id. at ¶ 106.

¹³ See id. at ¶ 117.

aspects of LNP cost recovery. In fact, because of the close relationship between the identification and allocation of joint costs with other aspects of LNP cost recovery, it is important that the FCC consider in a comprehensive manner the kind of cost support data it needs for LNP. For example, the Commission must first identify all directly assignable costs in order to calculate the remaining joint and common costs. Only then will the Commission be able to properly employ the joint cost methodology it elects in this proceeding. Because ILECs have yet to provide adequate cost information in this proceeding or in support of their query service tariff transmittals, the Commission must require them to do so.

The Commission needs detailed cost information for any methodology, including a fixed allocator applied uniformly across ILECs. The Commission has requested -- and been denied by ILECs -- such information in a number of instances.¹⁴ As Mr. Barta notes, though ILECs insist that implementation of LNP will require a significant investment in switching software and equipment, they continue to only "provide high level, summary [cost] information."¹⁵ Mr. Barta goes on to describe the types of information necessary for the Commission to begin to determine a methodology for allocating joint costs, or other aspects of LNP cost recovery.

¹⁴ See Barta Aff. at 2.

¹⁵ See Barta Aff. at 2. Barta notes that ILECs have provided insufficient cost information regarding both Type 1 as well as Type 2 costs. See Barta Aff. at 6.

This unsubstantiated claim should be supported with detailed cost data that includes the number of switches that will be upgraded with LNP feature software and the additional [Signal Transfer Points, Signal Control Points], that will be required to implement local number portability during the five year forecast period. The total Engineered, Furnished, and Installed cost associated with the switch software upgrades and the deployment of the incremental STPs and SCPs should be filed as part of the supporting cost data. In the same vein, if the ILECs believe that the investment in transport facilities must be augmented for the provision of local number portability, then the assumptions should be supported with detailed cost information that identify the type of investment required and the total installed cost by year of deployment.¹⁶

Mr. Barta also outlines additional cost information to verify the necessity for ILEC OSS upgrades, as well as the assignment of all such costs to LNP tariffs.¹⁷ In addition, Mr. Barta finds that the ILECs have failed to provide sufficient cost information to support the recurring costs ILECs have specified in their tariffed rates.¹⁸ Finally, Mr. Barta concludes that the ILECs continue to apply a general overhead allocator, rather than one that only reasonably recovers incremental costs of overhead.¹⁹

It should be emphasized that it is also necessary that the Commission obtain detailed cost information so that it may determine what LNP costs ILECs may recover via LNP query service tariffs, rather than end-user charges. For example, Mr. Barta

¹⁶ Barta Aff. at 2-3. Mr. Barta provides a recommended list of types of cost support information that should be required of ILECs. See Barta Aff. at Appendix B.

¹⁷ See id. at 3.

¹⁸ See id. at 3-4.

¹⁹ See id. at 4.

notes that SBC Communications Inc. (on behalf of SWBT, PacBel and Nevada Bell) has "allocated 15% of the total costs from the Basic Service Provider Number Portability tariff that the telephone company's local customers will be charged to the per query tariffs that the N-1 carrier will be charged."²⁰ These ILECs make no claim that 15% is tied to costs or usage -- rather, they attempt to justify the unsupported allocation by claiming that the database query service will be competitive.²¹ These carriers present no evidence to suggest that an economical alternative to ILEC database queries has emerged; TWTC knows of none that has emerged or is likely to emerge in the near future. Moreover, the ILECs have clear incentives to understate the expected volume of database queries -- both ILEC and CLEC -- and to overstate the expected proportion of those that are CLEC-generated. In this manner, ILECs may attempt to foist a disproportionate amount of LNP costs on CLECs. The ILECs must therefore provide information for the Commission to examine the reasonableness of the 15% designation, and/or to arrive at an alternative allocation arrangement grounded in economic costs or relative usage for those and other ILECs.

In short, the carriers have elected to provide summary information in response to the Commission's need for detail. The FCC should therefore require the ILECs to submit the cost information listed in Mr. Barta's declaration. The data must be

²⁰ Id. at 7.

²¹ See id. at 7.

collected before the FCC makes any decision regarding the specific issue raised in this proceeding, joint cost allocation, or any other aspect of LNP cost recovery, such as overhead allocation and the allocation of costs between end-user LNP charges and carrier charges for query services.

III. Several ILEC Comments Amount to Untimely Petitions for Reconsideration or are Inappropriate Collateral Attacks of the Third Report and Order, and Therefore Must be Ignored in this Proceeding.

In its Third Report and Order, the Commission requested comments on a single issue:

[W]e are requesting that carriers and interested parties file comments . . . proposing ways to apportion the different types of joint costs.²²

The Commission neither requested further comments nor indicated that it was reconsidering its rules, inter alia, regarding two questions addressed (and resolved in the negative) in the Third Report and Order: (1) may the entire costs of an upgrade be classified as costs directly related to providing LNP?; and (2) may general overhead loading factors be used in calculating the costs of providing LNP?

Ameritech and GTE, nevertheless, addressed these "questions" in their comments.²³ Other commenters addressed the issue of "advancement costs" -- the costs associated with accelerated replacement of equipment and facilities.²⁴ These comments either

²² Third Report and Order at ¶ 75.

²³ See Ameritech Comments; GTE Comments.

²⁴ See US WEST Comments at ii; BellSouth Comments at 3-4.

amount to untimely petitions for reconsideration to the extent they were not already raised in a carrier's petition for reconsideration of the Third Report and Order,²⁵ or amount to comments outside the scope of the Commission's request for additional comments and outside the Commission's established procedures for challenging Commission orders.²⁶ In either case, the Commission must ignore the comments to the extent they address these (already resolved) issues.

The Commission regularly disregards comments outside the scope of its request for comments.²⁷ This is due to its obligation under the Administrative Procedures Act ("APA") to provide notice prior to making rule changes, as well as provisions in the Communications Act and Commission regulations providing for challenge of Commission decisions by way of a petition for reconsideration, and ultimately appellate review.²⁸

²⁵ See Ameritech Petition for Reconsideration (filed re: Third Report and Order).

²⁶ See GTE Comments.

²⁷ See, e.g., Administration of the North American Numbering Plan, FCC 94-79, *Notice of Proposed Rulemaking*, 9 FCC Rcd 2068, n. 74 (1994) ("[B]ecause [an issue raised by several commenters] is outside the scope of this proceeding, we decline to interpret or reconsider those rules in this docket.") (emphasis added); Regulation of International Accounting Rates, FCC 96-459, *Fourth Report and Order*, 11 FCC Rcd 20063, n.25 (1996) ("NYNEX's request, which it raised only in Reply Comments in this proceeding, is outside the scope of, and not properly considered in, this proceeding. The issue raised by NYNEX has been generally raised in the Foreign Carrier Entry Order reconsideration proceeding, and we will incorporate NYNEX's Reply Comments in the record of that proceeding.")

²⁸ See 5 U.S.C. § 553 et seq.; 47 U.S.C. §§ 402, 405.

The APA provides that an agency "may promulgate final rules that differ from the proposed regulations," so long as they are a "'logical outgrowth' that the public should have anticipated."²⁹ An agency's "unexpressed intention [however] cannot convert a final rule into a 'logical outgrowth' that the public should have anticipated."³⁰ The Commission must disregard the comments in this proceeding to the extent they stray beyond "ways to apportion costs." Any rule based upon these comments, regarding topics not at issue due to their resolution in the prior comment cycle, would conflict with decisions reached in the Third Report and Order and would be completely unexpected in violation of the notification principles of the APA.

In addition, the Commission has established rules specifying the procedures for considering challenges to rulemaking proceedings. A Commission order generated by a rulemaking proceeding may be challenged in the form of a petition for reconsideration.³¹ Any resulting decision may be challenged in a Federal Court of Appeals.³² Neither the Communications Act nor the Commission's rules provides for collateral attacks of a decision by way of comments, not offered in response to a Commission notice or request, in a subsequent rulemaking

²⁹ Shell Oil Co. v. E.P.A., 950 F.2d 741, 750 (D.C. Cir. 1991) (quoting Small Refiner Lead Phase-Down Task Force v. E.P.A., 705 F.2d 50, 546-47 (D.C. Cir. 1983)).

³⁰ Id. at 751.

³¹ See 47 U.S.C. § 405.

³² See 47 U.S.C. § 402.

proceeding. The comments must therefore be disregarded to the extent they seek to challenge the Third Report and Order.

For example, Ameritech "proposes that the Query Services, like other new interstate services, also recover a reasonable portion of overheads."³³ This proposal runs directly contrary to the Commission's determination that "carriers may not use general overhead loading factors in calculating [number portability] costs."³⁴ In addition,

GTE believes that in appropriate circumstances and with proper demonstration, carriers should be permitted to treat the full cost of upgrades for switch hardware and software, OSS, SS7 or other network modifications as directly related³⁵ to the provision of number portability cost category.

This proposal runs directly contrary to the Commission's determination that

carrier-specific costs directly related to providing number portability are limited to costs carriers incur specifically in the provision of number portability services, such as for the querying of calls and the porting of telephone numbers from one carrier to another. Costs that carriers incur as an incidental consequence of number portability, however, are not

³³ Ameritech Comments at 3. Ameritech raised this very point in its Petition for Expedited Reconsideration and Clarification of the Third Report and Order. See Ameritech Petition for Reconsideration at 7-8.

³⁴ See Third Report and Order at ¶ 74.

³⁵ GTE Comments at 4 (describing this as a "but for" approach); see US WEST Comments at ii-iii ("Clearly, all [advancement] costs are 'carrier-specific costs directly related to providing number portability' and must be taken into account in calculating the LNP end-user surcharge."); BellSouth Comments at 3-4 ("The [BellSouth] LNP Cost Study . . . includes clearly identifiable advancement costs, i.e., costs incurred to implement projects sooner than scheduled because of LNP requirements.")

costs directly related to providing number portability.³⁶


The Commission's statements make clear that the comments on these two issues are misplaced, and should be ignored in this proceeding. They are outside the scope of the Commission's request for further comments, and must be addressed in the petition for reconsideration proceeding or on appeal.

³⁶ Third Report and Order at ¶ 72. As AT&T argued in its comments, the paragraph 72 discussion "and other guidance in the order suggest that if an investment or expense is to be deemed a recoverable cost of LNP, two questions must be answered in the affirmative. . . . [(1) H]as an incremental investment been made or a new expense been legitimately incurred because of an ILEC's obligation to implement LNP? [If so, (2) D]oes the investment or expense support services or functionalities other than number portability. If so, then it is plainly improper to allocate its entire cost to LNP, even if the investment were made in order to support that service." AT&T Comments at 4-5 (emphasis omitted).

CONCLUSION

For the foregoing reasons, TWTC respectfully requests the Commission to adopt a uniform fixed allocator for the separation of joint LNP costs based upon detailed economic cost studies. The level of this fixed allocator, as well as other aspects of LNP cost recovery, can only be determined based on detailed cost data, data that the ILECs have not provided. The FCC should therefore order the ILECs to submit detailed cost data on all aspects of LNP described in Mr. William Barta's declaration. Finally, TWTC urges the Commission to disregard the comments to the extent they urge recovery for costs not directly associated with provision of LNP services, including general overhead costs.

Respectfully submitted,


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September 16, 1998

EXHIBIT A

WILLIAM BARTA AFFIDAVIT

Qualifications and Purpose of Analysis

Qualifications

My name is William Barta. I am the President of Henderson Ridge Consulting, Inc., a regulatory consulting firm. The firm's practice focuses on the technical and policy issues confronting the telecommunications and electric utility industries. My qualifications are described in Appendix A, which also includes a copy of my curriculum vitae.

Purpose of Analysis

I have been requested by Time Warner Communications to review the Direct Cases filed by the Regional Bell Operating Companies in support of the rates proposed in the utilities' local number portability tariffs. The scope of the review is focused on whether the cost information and other data submitted by the incumbent local exchange carriers is sufficient to conclude that the proposed rates are reasonable and nondiscriminatory.

Discussion

I. THE COMMISSION SHOULD STRUCTURE THE LOCAL NUMBER PORTABILITY PROCEEDING ALONG THE LINES OF OTHER MAJOR POLICY DOCKETS INVOLVING THE DEVELOPMENT OF LOCAL COMPETITION, SUCH AS THE UNIVERSAL SERVICE REFORM PROCEEDING.

It is irrefutable that the inability of customers to retain their telephone numbers when changing from the incumbent local exchange carrier to an alternative service provider retards the development of competition. Congress and the Commission have both recognized the importance of the link between local number portability and the development of local competition. The pro-competitive provisions established by Congress in the Telecommunications Act of 1996 specifically address the implementation of local number portability in Section 251(b)(2). The Commission's responsibility is to develop a set of rules and regulations that satisfies the mandates and fulfills the expectations of Congress regarding the implementation of local number portability.

In other matters related to the development of local competition, the Commission has required that the incumbent local exchange carriers support their positions and filings with detailed cost data. Most notably, the Commission's proceeding investigating universal service reform has been based upon a thorough record that includes, among other filings, detailed forward-looking economic cost studies. The importance of local number portability to the development of local competition demands that the same level of scrutiny and analysis be undertaken in this docket.

II. THE COMMISSION SHOULD REQUIRE THE INCUMBENT LOCAL EXCHANGE CARRIERS TO SUPPORT THEIR LOCAL NUMBER PORTABILITY TARIFF FILINGS WITH DETAILED COST DATA.

The Commission has repeatedly clarified the type of cost support that the incumbent local exchange carriers must file in support of the local number portability tariffs. The Commission has even identified the deficiencies within the carriers' tariff filings in its June 17, 1998 Designation Order. The ILECs, however, continue to look the other way in response to the Commission's requirements for cost support and, instead, merely provide high level, summary information. The best available remedy at this time is for the Commission to require the ILECs to submit detailed forward-looking economic cost studies that provide the same type of cost information and support that is part of the record in the universal service reform proceeding. Appendix B provides the Commission with an example of the type of cost support that should be required of the incumbent carriers in support of their proposed LNP tariff rates.

The incumbent carriers assert that the provision of local number portability will require a significant investment in additional switching feature software and signaling links (e.g. Signal Transfer Points and Service Control Points). This unsubstantiated claim should be supported with detailed cost data that includes the number of switches that will be upgraded with LNP feature software and the additional STPs and SCPs that will be required to implement local number

portability during the five year forecast period. The total Engineered, Furnished, and Installed ("EF&I") cost associated with the switch software upgrades and the deployment of the incremental STPs and SCPs should be filed as part of the supporting cost data. In the same vein, if the ILECs believe that the investment in transport facilities must be augmented for the provision of local number portability, then the assumptions should be supported with detailed cost information that identify the type of investment required and the total installed cost by year of deployment.

The ILECs have insisted in their tariff filings that major modifications must be made to their Operational Support Systems in order to accommodate the demands of local number portability. In some instances (e.g. BellSouth), an extensive discussion of the acquisition and development of new OSS, as well as the changes made to existing systems, has been provided. But there is little in the way of cost information filed in support of these claims. The ILECs should be required to provide a complete description of the functionality achieved through each OSS enhancement and the cost incurred to acquire the specific capabilities. In addition, the ILECs' assignment of the costs associated with the OSS modifications to their local number portability tariffs should be verified. The assumption made in the existing tariff support that the costs of many OSS modifications should be classified solely to LNP tariffs is questionable. It is reasonable to expect that the functionality of the OSS systems is sufficiently flexible to accommodate several services; therefore, the costs of any upgrades should be borne by the family of shared services.

The estimate of LNP-related recurring costs that the ILECs have developed is presumably based upon forward-looking capital cost factors and annual cost factors. But the carriers have not supported their cost estimates with an explanation of the assumptions underlying the tariffed rates. For instance, it is not clear whether ILEC depreciation assumptions include an economic life of five

years in order to synchronize the recovery of capital expenditures with the effective LNP tariff period. Furthermore, there is scant support provided for the carriers' estimates of operations expenses. The Commission should require the ILECs to provide support for any adjustments made to recast embedded expense levels as forward-looking in the development of their LNP tariffs. In addition, the incumbent carriers must support the revisions to existing annual cost factors to make them LNP-specific.

III. THE RECOVERY OF THE INCUMBENT LOCAL EXCHANGE CARRIERS' OVERHEAD EXPENSES SHOULD BE LIMITED TO THE OVERHEAD THAT IS INCREMENTAL TO THE PROVISION OF LONG-TERM LOCAL NUMBER PORTABILITY.

The Commission has been abundantly clear and consistent in its Orders that the recovery of overhead costs must be limited to the incremental overhead expense attributed to the provision of LNP. Contrary to the Commission's directives, the incumbent carriers have included massive amounts of overhead expense in their LNP tariffs by applying a general overhead allocator. For example, Southwestern Bell Telephone Company increases its LNP rates by 71.21% for general overhead expenses. The Bell Atlantic general overhead factor of 60.57% represents another case where the Company's proposed rates have been significantly increased. The Commission has correctly pointed out that the use of a general overhead factor will result in double recovery of these expenses by the carriers. The incumbent carriers must provide detailed support on the incremental overhead costs that have been incurred in the provision of local number portability prior to any overhead expenses being allocated for recovery in the LNP tariffs.

IV. THE RECOVERY OF JOINT AND COMMON COSTS SHOULD BE BASED UPON A UNIFORM PERCENTAGE MARK-UP OF THE INCUMBENT CARRIERS' LNP RELATED COSTS.

The proposed recovery of joint and common costs by the ILECs in their LNP tariffs ranges from arbitrary service mark-ups of 20% (e.g. Southwestern Bell

Communications and Ameritech) to a discussion of the nature of the costs and how such costs should be recovered (e.g. BellSouth). The most glaring shortcoming that pervades the tariff filings is to what degree the provision of local number portability increases the magnitude of the carriers' joint and common costs. Joint and common costs are typically considered as the costs that arise from the provisioning of multiple services through the same process or one set of physical assets producing two or more services. The ILECs must support their proposed joint and common cost allocation methodology by explicitly identifying the incremental joint and common costs that may be incurred due to the provision of local number portability.

The issue of recovery can be addressed once the magnitude of the incremental joint and common costs attributable to LNP provision has been fully supported. The allocation of a carrier's joint and common costs among multiple services has a long history with the Commission. It is generally held that services should include no more than a reasonable share of joint and common costs. One way to determine the reasonableness of an incumbent local exchange carrier's joint and common cost recovery is to examine the percentage mark-up across the breadth of its "more competitive" services. As a first point of test, any proposed percentage mark-up for the recovery of joint and common costs incrementally caused by the provision of local number portability must not exceed the carrier's mark-up for its more competitive services.

A careful review of the comments and Direct Cases filed by the incumbent carriers indicates that the switching feature software packages, the deployment of additional network facilities, and the OSS modifications that are deemed necessary for the provision of local number portability will not substantially differ across carriers. Likewise, the level of joint and common costs should not vary significantly among the carriers due to the similar cost characteristics in providing LNP. The standardization inherent in the provision of LNP lends itself to

developing a nationwide uniform factor for LNP joint and common cost recovery. The Commission should establish a uniform percentage mark-up applicable to all ILECs for the recovery of the joint and common costs that are incremental to the provision of local number portability. A uniform percentage mark-up offers administrative ease for all parties and provides alternative service providers greater assurance that there will be some consistency among the LNP tariffs when planning their service offerings.

V. THE LNP TARIFF SUPPORT DOES NOT IDENTIFY THE AMOUNT OF TYPE 1 COSTS THAT ARE EMBEDDED IN TYPE 2 COST RECOVERY.

The Type 1 Costs, or shared industry costs, are those costs that will be incurred by the neutral third party administrators who will build, operate, and manage the local number portability regional databases. Once these Type 1 costs have been allocated they are deemed attributable to specific carriers and will be treated as Type 2 costs (i.e. carrier-specific costs directly related to providing number portability). The recovery of Type 1 costs incurred by the regional database administrators is appropriate provided the incumbent carriers document the amount of these expenses that are included in the total Type 2 costs with an assessment from the regional database administrator. Type 1 cost documentation will offer the Commission and other parties an additional test of reasonableness by isolating the carriers' "core" Type 2 costs. The Commission should also institute provisions for an annual true-up in the likely event that the proposed LNP rates over- or under-recover the carriers' Type 1 costs.

VI. THE CARRIERS' ATTEMPT TO RECOVER "ADVANCEMENT COSTS" HAS BEEN DENIED BY THE COMMISSION AND SUCH COSTS SHOULD NOT BE REFLECTED IN THE PROPOSED LNP RATES.

A few of the ILECs have proposed to recover "advancement costs" in their LNP tariffs. The recovery of these "advancement costs" is theoretically supposed to compensate the incumbent carrier for the costs incurred to implement projects